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*Counsel for Defendants*

**UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH**

DEVAN GRINER,

Plaintiff,

vs.

JOSEPH R. BIDEN, in his official capacity as the President of the United States of America; the UNITED STATES OF AMERICA; UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; XAVIER BECERRA, in his official capacity as Secretary of the United States Department of Health and Human Services; CENTERS FOR MEDICARE AND MEDICAID SERVICES; CHIQUITA BROOKS-LASURE, in her official capacity as Administrator for the Centers for Medicare and Medicaid Services; MEENA SESHAMANI, in her official capacity as Deputy Administrator and Director of Center for Medicare; and DANIEL TSAI, in his official capacity as Deputy Administrator and Director of Center for Medicaid and CHIP Services,

Defendants.

**Case No. 2:22-cv-00149-DAK**

**DEFENDANTS' RESPONSE TO  
PLAINTIFF'S SECOND MOTION TO  
SUPPLEMENT THE RECORD**

**Hon. Dale A. Kimball**

Plaintiff has filed a Second Motion to Supplement the Record, ECF No. 34, to submit his interpretation of an incomplete excerpt of an interview with a former government official. That official left office nine months before the Secretary of Health and Human Services issued the vaccination rule that Plaintiff has challenged in this case.

Defendants oppose this motion for the reasons they have stated in prior briefing, *see* ECF Nos. 19, 20, 24, 26 & 29.

Dated: July 29, 2022

Respectfully submitted,

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Assistant Director, Federal Programs Branch

/s/ Joel McElvain  
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**CERTIFICATE OF SERVICE**

I hereby certify that on July 29, 2022, I filed the foregoing Defendants' Response to Plaintiff's Second Motion to Supplement the Record with the Clerk of the Court electronically via the Court's ECF system, which sent notification of such filing to counsel of record for all parties.

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